

## CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1437

**Citations Affected:** IC 5-2-6; IC 35-45-9; IC 35-50-2-1.4.

**Synopsis:** Forensic diversion and criminal gangs. Conference committee report for EHB 1437. Imposes additional requirements for a person to participate in a preconviction or postconviction forensic diversion program. Provides that a person who has both a mental illness and an addictive disorder may participate in a forensic diversion program. (Current law allows a person who has a mental illness or an addictive disorder to participate.) Permits a court to allow a person identified by a prosecuting attorney's office or pretrial services bureau to utilize the facilities or programs offered by an alcohol and drug services program. Changes the definition of "criminal gang", for purposes of certain criminal statutes, to provide that a criminal gang consists of at least three members (instead of five members). Makes it a Class D felony for an individual to solicit, recruit, entice, or intimidate another individual to join a criminal gang. Makes criminal gang recruitment a Class C felony if: (1) the solicitation, recruitment, enticement, or intimidation to join a criminal gang occurs within 1,000 feet of school property; or (2) the individual being solicited, recruited, enticed, or intimidated to join a criminal gang is less than 18 years of age. Requires the criminal justice institute to develop, maintain, and identify grants and other funds for the criminal gang witness protection program. Establishes a program to assist a person who witnesses criminal gang crime with certain expenses. Requires a court to order a criminal gang member to make restitution to a victim of a felony or misdemeanor committed by the criminal gang member. (The introduced version of this bill was prepared by the forensic diversion study committee.) **(This conference committee report: (1) changes the definition of "criminal gang", for purposes of certain criminal statutes, to provide that a criminal gang consists of at least three members (instead of five members); (2) makes it a Class D felony for an individual to solicit, recruit, entice, or intimidate another individual to join a criminal gang; (3) makes criminal gang recruitment a Class C felony if: (A) the solicitation, recruitment, enticement, or intimidation to join a criminal gang occurs within 1,000 feet of school property; or (B) the individual being solicited, recruited, enticed, or intimidated to join a criminal gang is less than 18 years of age; (4) requires the criminal justice institute to develop, maintain, and identify grants and other funds for the criminal gang witness protection program; (5) establishes a program to assist a person who witnesses criminal gang crime with certain expenses; and (6) requires a court to order a criminal gang member to make restitution to a victim of a felony or misdemeanor committed by the criminal gang member.)**

**Effective:** July 1, 2007.

# CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1437 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 criminal law and corrections.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.173-2006,
- 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2007]: Sec. 3. The institute is established to do the following:
- 9 (1) Evaluate state and local programs associated with:
- 10 (A) the prevention, detection, and solution of criminal
- 11 offenses;
- 12 (B) law enforcement; and
- 13 (C) the administration of criminal and juvenile justice.
- 14 (2) Improve and coordinate all aspects of law enforcement,
- 15 juvenile justice, and criminal justice in this state.
- 16 (3) Stimulate criminal and juvenile justice research.
- 17 (4) Develop new methods for the prevention and reduction of
- 18 crime.
- 19 (5) Prepare applications for funds under the Omnibus Act and the
- 20 Juvenile Justice Act.
- 21 (6) Administer victim and witness assistance funds.
- 22 (7) Administer the traffic safety functions assigned to the institute

under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

**(13) Develop and manage the gang crime witness protection program established by section 21 of this chapter.**

**(14) Identify grants and other funds that can be used to fund the gang crime witness protection program.**

SECTION 2. IC 5-2-6-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 21. (a) The gang crime witness protection program is established.**

**(b) The gang crime witness protection program shall be developed and maintained to assist witnesses of gang crimes with:**

- (1) temporary living costs;**
- (2) moving expenses;**
- (3) rent;**
- (4) security deposits; and**
- (5) other appropriate expenses of relocation or transitional housing.**

**(c) The institute shall develop and maintain procedures to award funds for the purposes described in subsection (b) to an individual who witnesses a gang crime.**

**(d) The institute shall adopt rules under IC 4-22-2 to implement this section.**

**(e) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:**

- (1) A date set by the director.**
- (2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.**

**If the director of the criminal justice institute delays implementation of this section, the director shall notify each prosecuting attorney of the director's action.**

SECTION 3. IC 5-2-6-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 22. (a) The gang crime witness protection fund is established. The institute shall administer the fund.**

**(b) The fund consists of:**

(1) money identified and obtained by the institute under subsection (d);

(2) appropriations made to the fund by the general assembly; and

(3) grants, gifts, and donations to the fund.

(c) The institute shall use money in the fund for costs described in section 21(b) of this chapter.

(d) The institute shall identify and obtain grants and other funds that can be used to fund the gang crime witness protection program under section 21 of this chapter.

(e) Money in the gang crime witness protection fund at the end of a state fiscal year does not revert to the state general fund."

Page 6, after line 19, begin a new paragraph and insert:

"SECTION 9. IC 35-45-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "criminal gang" means a group with at least ~~five (5)~~ **three (3)** members that specifically:

(1) either:

(A) promotes, sponsors, or assists in; or

(B) participates in; or

(2) requires as a condition of membership or continued membership;

the commission of a felony or an act that would be a felony if committed by an adult or the offense of battery (IC 35-42-2-1).

SECTION 10. IC 35-45-9-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Except as provided in subsection (b), an individual who knowingly or intentionally solicits, recruits, entices, or intimidates another individual to join a criminal gang commits criminal gang recruitment, a Class D felony.

(b) The offense under subsection (a) is a Class C felony if:

(1) the solicitation, recruitment, enticement, or intimidation occurs within one thousand (1,000) feet of school property; or

(2) the individual who is solicited, recruited, enticed, or intimidated is less than eighteen (18) years of age.

SECTION 11. IC 35-45-9-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. In addition to any sentence or fine imposed on a criminal gang member for committing a felony or misdemeanor, the court shall order a criminal gang member convicted of a felony or misdemeanor to make restitution to the victim of the crime under IC 35-50-5-3.

SECTION 12. IC 35-50-2-1.4, AS ADDED BY P.L.109-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.4. For purposes of section 15 of this chapter, "criminal gang" means a group with at least ~~five (5)~~ **three (3)** members that specifically:

(1) either:

(A) promotes, sponsors, or assists in; or

(B) participates in; or

(2) requires as a condition of membership or continued

- 1 membership;
- 2 the commission of a felony or an act that would be a felony if
- 3 committed by an adult or the offense of battery (IC 35-42-2-1).".
- 4 Renumber all SECTIONS consecutively  
(Reference is to EHB 1437 as printed March 30, 2007.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1437**

**S**igned by:

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Representative Smith V  
Chairperson

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Senator Bray

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Representative Foley

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Senator Lanane

**House Conferees**

**Senate Conferees**